

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

No. CR 21-00011 WHA

v.

CHEN SONG,

Defendant.

SCHEDULING ORDER

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1. Notwithstanding the disclosure dates discussed and approved at the March 2 hearing, all Rule 16 materials acquired after March 19 by the government or any of its agents subject to Rule 16 must be produced within **ONE CALENDAR DAY** of receipt or acquisition by government counsel or its agent (but, again, only to a defendant who has made a timely written request). Failure to so produce will preclude use of any such evidence by the government (other than for impeachment or rebuttal). As to any such Rule 16 material produced after March 19, the burden shall be on the government to demonstrate compliance with the one-day disclosure requirement.
 2. Material subject to the government's pending CIPA § 4 motion, if ordered disclosed, shall be disclosed within one day of the order requiring such disclosure.
 3. The Court has not imposed a deadline to produce all *Brady* materials. Under *Brady*, disclosure of exculpatory evidence "must be made at a time when the

disclosure would be of value to the accused.” *United States v. Davenport*, 753 F.2d 1460, 1462 (9th Cir. 1985). The government should therefore be mindful that these materials should be produced as early as our circumstances and fairness so require.

4. On **APRIL 7, 2021**, the final pretrial conference shall be held at **12:00 P.M.** All motions for the final pretrial conference, including *in limine* motions and motions directed at the accuracy of transcripts of recordings, shall be due **MARCH 24 AT NOON**. Oppositions shall be due **MARCH 31 AT NOON**. Replies — *only if absolutely necessary* — shall be due **APRIL 2 AT NOON**.

5. Pre-trial briefs shall be due **MARCH 31 AT NOON**.

6. On **APRIL 9, 2021**, a bench trial shall commence **AT 7:30 A.M.**

IT IS SO ORDERED.

Dated: March 18, 2021.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE